

This is not the official court record. Official records of court proceedings may only be obtained directly from the court maintaining a particular record.

## Janice Walters v. Sam's East, Inc., d/b/a Sam's Club

Case Number 49D13-2007-CT-023665  
 Court Marion Superior Court, Civil Division 13  
 Type CT - Civil Tort  
 Filed 07/16/2020  
 Status 07/16/2020 , Pending (active)

## Parties to the Case

Defendant Sam's East, Inc., d/b/a Sam's Club

Address c/o CT Corporation System  
 334 North Senate Avenue  
 Indianapolis, IN 46204

Attorney Thomas L Davis  
*#442349, Retained*  
 FROST BROWN TODD LLC  
 201 North Illinois Street - Suite 1900  
 Indianapolis, IN 46204  
 317-237-3800(W)

Plaintiff Walters, Janice

Attorney Daniel Gore  
*#3132253, Retained*  
 104 S. Franklin Road  
 Bloomington, IN 47404  
 812-332-9451(W)

## Chronological Case Summary

07/16/2020 **Case Opened as a New Filing**

07/17/2020 **Complaint/Equivalent Pleading Filed**

Complaint for Damages

Filed By: Walters, Janice  
 File Stamp: 07/16/2020

07/17/2020 **Appearance Filed**

Appearance

For Party: Walters, Janice  
 File Stamp: 07/16/2020

07/17/2020 **Subpoena/Summons Filed**

Summons to Sam's East, Inc.

Filed By: Walters, Janice  
 File Stamp: 07/16/2020

08/11/2020 **Service Returned Served (E-Filing)**

Return of Service for Sam's East

Filed By: Walters, Janice

File Stamp: 08/11/2020

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08/14/2020 **Appearance Filed**

E-Filing Appearance by Attorney in Civil Case

For Party: Sam's East, Inc., d/b/a Sam's Club

File Stamp: 08/14/2020

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08/14/2020 **Answer Filed**

Defendant's Answer to Plaintiff's Complaint

Filed By: Sam's East, Inc., d/b/a Sam's Club

File Stamp: 08/14/2020

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08/17/2020 **Order Issued**

Order to Confer and Tender Proposed Case Management Order Issued. Signed Judge James A. Joven. See Order for details. Parties notified.

Judicial Officer: Joven, James A

Noticed: Gore, Daniel

Noticed: Davis, Thomas L

Order Signed: 08/17/2020

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08/18/2020 **Automated ENotice Issued to Parties**

Order Issued ---- 8/17/2020 : Daniel Gore;Thomas L Davis

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09/24/2020 **Witness and/or Exhibit List Filed**

Plaintiff's Preliminary List of Witnesses and Exhibits

Filed By: Walters, Janice

File Stamp: 09/24/2020

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09/30/2020 **Case Management Plan**

Judicial Officer: Mattingly, Kimberly Dean - MAG

Order Signed: 09/28/2020

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09/30/2020 **Hearing Scheduling Activity**

Final PreTrial Conference scheduled for 10/13/2021 at 9:30 AM.

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09/30/2020 **Hearing Scheduling Activity**

Jury Trial scheduled for 11/01/2021 at 9:00 AM.

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09/30/2020 **Hearing Scheduling Activity**

Jury Trial scheduled for 11/02/2021 at 9:00 AM.

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10/01/2020 **Automated ENotice Issued to Parties**

Case Management Plan ---- 9/30/2020 : Daniel Gore;Thomas L Davis Hearing Scheduling Activity ---- 9/30/2020 : Daniel Gore;Thomas L Davis Hearing Scheduling Activity ---- 9/30/2020 : Daniel Gore;Thomas L Davis Hearing Scheduling Activity ---- 9/30/2020 : Daniel Gore;Thomas L Davis

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10/08/2020 **Witness and/or Exhibit List Filed**

Defendant's Preliminary Witness and Exhibit Lists

Filed By: Sam's East, Inc., d/b/a Sam's Club

File Stamp: 10/08/2020

**10/13/2021 Final PreTrial Conference**

Session: 10/13/2021 9:30 AM, Judicial Officer: Mattingly, Kimberly Dean - MAG

**11/01/2021 Jury Trial**

Session: 11/01/2021 9:00 AM, Judicial Officer: Mattingly, Kimberly Dean - MAG

Comment: Day 1 of 2; 3rd Choice

**11/02/2021 Jury Trial**

Session: 11/02/2021 9:00 AM, Judicial Officer: Mattingly, Kimberly Dean - MAG

Comment: Day 2 of 2; 3rd Choice

**Financial Information**

\* Financial Balances reflected are current representations of transactions processed by the Clerk's Office. Please note that any balance due does not reflect interest that has accrued – if applicable – since the last payment. For questions/concerns regarding balances shown, please contact the Clerk's Office.

**Walters, Janice**

Plaintiff

Balance Due (as of 01/11/2021)

0.00

**Charge Summary**

Description	Amount	Credit	Payment
Court Costs and Filing Fees	157.00	0.00	157.00

**Transaction Summary**

Date	Description	Amount
07/17/2020	Transaction Assessment	157.00
07/17/2020	Electronic Payment	(157.00)

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STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF MARION    )        CAUSE NO.

JANICE WALTERS

VS.

JOHN DOE and SAM'S EAST, INC.,  
d/b/a Sam's Club

### **COMPLAINT FOR DAMAGES**

Comes now the plaintiff, Janice Walters, by counsel, Ken Nunn Law Office, and for cause of action against the defendants, John Doe and Sam's East, Inc., d/b/a Sam's Club, alleges and says:

1. That on or about March 3, 2020, as the plaintiff was attempting to retrieve a cart from the cart corral at the Sam's Club store located at 7235 East 96th Street in Indianapolis, Marion County, Indiana, an unknown defendant, John Doe, negligently pushed a row of shopping carts into plaintiff, causing plaintiff to fall and suffer serious injuries.

2. That the unknown defendant, John Doe, was in the course and scope of his employment for the defendant, Sam's East, Inc., d/b/a Sam's Club.

3. That the defendant, Sam's East, Inc., d/b/a Sam's Club, is liable for damages to plaintiff for all negligent acts committed by its unknown employee, John Doe, in the course of his employment.

4. That the plaintiff received permanent injuries as a result of the defendants' negligence.

5. That the plaintiff has incurred medical expenses and other special expenses in an amount to be proven at the trial of this cause, and will incur future medical expenses, lost wages, and other special expenses, as a direct and proximate result of defendants' negligence.

WHEREFORE, the plaintiff demands judgment against the defendants for permanent injuries in a reasonable amount to be determined at the trial of this cause, for medical expenses and other special expenses, for future medical expenses, lost wages, and other special expenses, court costs, and all other proper relief in the premises.

-2-

KEN NUNN LAW OFFICE

BY: s/ Daniel Gore  
Daniel Gore, #31322-53  
KEN NUNN LAW OFFICE  
104 South Franklin Road  
Bloomington, IN 47404  
Phone: (812) 332-9451  
Fax: (812) 331-5321  
E-mail: [dgore@kennunn.com](mailto:dgore@kennunn.com)

REQUEST FOR TRIAL BY JURY

Comes now the plaintiff, by counsel, Ken Nunn Law Office, and requests that this matter be tried by jury pursuant to Trial Rule 38.

KEN NUNN LAW OFFICE

BY: s/ Daniel Gore  
Daniel Gore, #31322-53  
KEN NUNN LAW OFFICE  
104 South Franklin Road  
Bloomington, IN 47404  
Phone: (812) 332-9451  
Fax: (812) 331-5321  
E-mail: [dgore@kennunn.com](mailto:dgore@kennunn.com)

Daniel Gore, #31322-53  
Ken Nunn Law Office  
104 South Franklin Road  
Bloomington, IN 47404  
Telephone: 812-332-9451  
Fax Number: 812-331-5321  
Attorney for Plaintiff



**APPEARANCE FORM (CIVIL)**  
**Initiating Party**

CAUSE NO:	
1. Name of first initiating party	Janice Walters [REDACTED] [REDACTED]
2. Telephone of pro se initiating party	NA
3. Attorney information (as applicable for service of process)	Daniel Gore #31322-53 Ken Nunn Law Office 104 South Franklin Road Bloomington, IN 47404 PHONE: 812 332-9451 FAX: 812 331-5321 Email: dgore@kennunn.com
4. Case type requested	CT (Civil Tort)
5. Will accept FAX service	YES
6. Are there related cases	NO
7. Additional information required by State or Local Rules	
Continuation of Item 1 (Names of initiating parties)	NAME: NAME:
Continuation of Item 3 (Attorney information as applicable for service of process)	

s/Daniel Gore  
Attorney-at-Law  
(Attorney information shown above.)

CIRCUIT/SUPERIOR COURTS FOR THE COUNTY OF MARION  
STATE OF INDIANA  
CITY COUNTY BUILDING, 200 E. WASHINGTON STREET  
INDIANAPOLIS, INDIANA 46204  
TELEPHONE 317 327-4740

Janice Walters

Plaintiff(s)

VS.

No. \_\_\_\_\_

Sam's East, Inc., d/b/a Sam's Club

Defendant(s)

**SUMMONS**

The State of Indiana to Defendant: **Sam's East, Inc., c/o CT Corporation System, 334 North Senate Avenue, Indianapolis, IN 46204**

You have been sued by the person(s) named "plaintiff" in the court stated above.

The nature of the suit against you is stated in the complaint which is attached to this document. It also states the demand which the plaintiff has made and wants from you.

You must answer the complaint in writing, by you or your attorney, within Twenty (20) days, commencing the day after you receive this summons, or judgment will be entered against you for what the plaintiff has demanded. You have twenty-three (23) days to answer if this summons was received by mail. **Such Answer Must Be Made In Court.**

If you have a claim for relief against the plaintiff arising from the same transaction or occurrence, you must assert it in your written answer.

Date: 7/17/2020

*Nyle A. Eldridge*

CLERK, MARION CIRCUIT/SUPERIOR COURTS

DANIEL GORE, #31322-53  
ATTORNEY FOR PLAINTIFF  
KEN NUNN LAW OFFICE  
104 FRANKLIN ROAD  
BLOOMINGTON, IN 47404

**ACKNOWLEDGMENT OF SERVICE OF SUMMONS**

A copy of the above summons and a copy of the complaint attached thereto were received by me at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

SIGNATURE OF DEFENDANT

PRAECIPE: I designate the following mode of service to be used by the Clerk.

- XX By certified or registered mail with return receipt to above address.
- ☐ By Sheriff delivering a copy of summons and complaint personally to defendant or by leaving a copy of the summons and complaint at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein.
- ☐ By \_\_\_\_\_ delivering a copy of summons and complaint personally to defendant or by leaving a copy of the summons and complaint at his dwelling house or usual place of abode.
- ☐ By serving his agent as provided by rule, statute or valid agreement, to-wit:

KEN NUNN LAW OFFICE

BY: s/ DANIEL GORE  
ATTORNEY FOR PLAINTIFF



CERTIFICATE OF MAILING: I certify that on the \_\_ day of \_\_\_\_\_, 2020, I mailed a copy of this summons and a copy of the complaint to each of the defendant(s) by (registered or certified mail requesting a return receipt signed by the addressee only, addressed to each of said defendant(s) at the address(es) furnished by plaintiff.

Dated this \_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
CLERK, MARION CIRCUIT/SUPERIOR COURTS

RETURN OF SERVICE OF SUMMONS BY MAIL: I hereby certify that service of summons with return receipt requested was mailed on the \_\_ day of \_\_\_\_\_, 2020, and that a copy of the return of receipt was received by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, which copy is attached herewith.

\_\_\_\_\_  
CLERK, MARION CIRCUIT/SUPERIOR COURTS

CERTIFICATE OF CLERK OF SUMMONS NOT ACCEPTED BY MAIL: I hereby certify that on the \_\_ day of \_\_\_\_\_, 2020, I mailed a copy of this summons and a copy of the complaint to the defendant(s) by (registered or certified) mail, and the same was returned without acceptance this \_\_ day of \_\_\_\_\_, 2020, and I did deliver said summons and a copy of the complaint to the Sheriff of MARION County, Indiana.

Dated this \_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
CLERK, MARION CIRCUIT/SUPERIOR COURTS

RETURN OF SUMMONS: This summons came to hand on the \_\_ day of \_\_\_\_\_, 2020, and I served the same on the \_\_ day of \_\_\_\_\_, 2020.

1. By mailing a copy of the summons and complaint personally to \_\_\_\_\_ address \_\_\_\_\_.
2. By delivering a copy of summons and complaint personally to \_\_\_\_\_.
3. By leaving a copy of the summons and complaint at \_\_\_\_\_ the dwelling house or usual place of abode of defendant: \_\_\_\_\_ (Name of Person) and by mailing by first class mail a copy of the summons on the \_\_ day of \_\_\_\_\_, 2020 to \_\_\_\_\_ his last known address.
4. By serving his agent as provided by rule, statute or valid agreement to-wit: \_\_\_\_\_.
5. Defendant cannot be found in my bailwick and summons was not served.

And I now return this writ this \_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
SHERIFF or DEPUTY

RETURN ON SERVICE OF SUMMONS: I hereby certify that I have served the within summons:

1. By delivery on the \_\_ day of \_\_\_\_\_, 2020 a copy of this summons and a copy of the complaint to each of the within named defendant(s) \_\_\_\_\_.
2. By leaving on the \_\_ day of \_\_\_\_\_, 2020 for each of the within named defendant(s) \_\_\_\_\_, a copy of the summons and a copy of the complaint at the respective dwelling house or usual place of abode with \_\_\_\_\_ a person of suitable age and discretion residing therein whose usual duties or activities include prompt communication of such information to the person served.
3. \_\_\_\_\_ and by mailing a copy of the summons without the complaint to \_\_\_\_\_ at \_\_\_\_\_ the last known address of defendant(s).

All done in MARION County, Indiana.

Fees: \$ \_\_\_\_\_

\_\_\_\_\_  
SHERIFF or DEPUTY



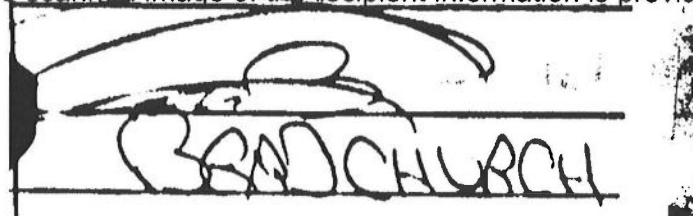
Mailer: Ken Nunn Law Office

Date Produced: 07/27/2020

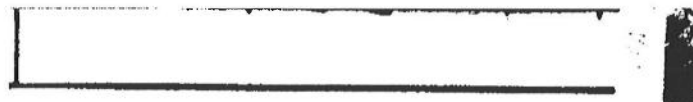
ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8316 8962 76. Our records indicate that this item was delivered on 07/23/2020 at 09:58 a.m. in INDIANAPOLIS, IN 46202. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,  
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

SAM'S EAST INC C/O CT CORPORATION SYSTEM  
334 N SENATE AVE  
INDIANAPOLIS IN 46204-1708

Customer Reference Number: C2171113.12358244

Return Reference Number: Janice Walters

MAILING DATE: 07/20/2020

DELIVERED DATE: 07/23/2020

CUSTOM1:

MAIL PIECE DELIVERY INFORMATION:

SAM'S EAST INC C/O CT CORPORATION SYSTEM  
334 N SENATE AVE  
INDIANAPOLIS IN 46204-1708

MAIL PIECE TRACKING EVENTS:

07/20/2020 11:52	PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	BLOOMINGTON,IN 47404
07/21/2020 21:36	ORIGIN ACCEPTANCE	BLOOMINGTON,IN 47404
07/21/2020 22:51	PROCESSED THROUGH USPS FACILITY	INDIANAPOLIS,IN 46206
07/22/2020 02:34	PROCESSED THROUGH USPS FACILITY	INDIANAPOLIS,IN 46206
07/23/2020 06:32	ARRIVAL AT UNIT	INDIANAPOLIS,IN 46204
07/23/2020 07:10	OUT FOR DELIVERY	INDIANAPOLIS,IN 46204
07/23/2020 09:58	DELIVERED INDIVIDUAL PICKED UP AT USPS	INDIANAPOLIS,IN 46202

IN THE MARION COUNTY SUPERIOR COURT  
 STATE OF INDIANA

JANICE WALTERS,	)	CAUSE NO. 49D13-2007-CT-023665
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
JOHN DOE and SAM'S EAST, INC.	)	
d/b/a Sam's Club,	)	
	)	
Defendants.	)	

**E-FILING APPEARANCE BY ATTORNEYS IN CIVIL CASE**

This Appearance Form must be filed on behalf of every party in a civil case.

1. The party on whose behalf this form is being filed is:

Initiating \_\_\_\_\_ Responding X Intervening \_\_\_\_\_; and

the undersigned attorney and all attorneys listed on this form now appear in this case for the following parties:

Name of Party: **Sam's East, Inc. d/b/a Sam's Club**

2. Attorney information for service as required by Trial Rule 5(B)(2):

Name:	<b>Thomas L. Davis</b>	Attorney Number:	#4423-49
	<b>FROST BROWN TODD LLC</b>	Phone:	(317) 237-3800
Address:	<b>201 North Illinois Street, Suite 1900</b>	FAX:	(317) 237-3900
	<b>P.O. Box 44961</b>	Email:	tdavis@fbtlaw.com
	<b>Indianapolis, IN 46244-0961</b>		

**IMPORTANT:** Each attorney specified on this appearance:

- (a) certifies that the contact information listed for him/her on the Indiana Supreme Court Roll of Attorneys is current and accurate as of the date of this Appearance;
- (b) **acknowledges that all orders, opinions, and notices from the court in this matter that are served under Trial Rule 86(G) will be sent to the attorney at the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information listed above for the attorney; and**
- (c) understands that he/she is solely responsible for keeping his/her Roll of Attorneys contact information current and accurate, see Ind. Admis. Disc. R.

2(A).

3. This is a CT case type as defined in administrative Rule 8(B)(3).
4. This case involves child support issues. Yes \_\_\_\_ No X
5. This case involves a protection from abuse order, a workplace violence restraining order, or a no – contact order. Yes \_\_\_\_ No X
6. This case involves a petition for involuntary commitment. Yes \_\_\_\_ No X
7. There are related cases: Yes \_\_\_\_ No X
8. Additional information required by local rule: None
9. There are other party members: Yes \_\_\_\_ No X
10. This form has been served on all other parties and Certificate of Service is attached:  
Yes X No \_\_\_\_

Respectfully submitted,

/s/ Thomas L. Davis

Thomas L. Davis, #4423-49  
Frost Brown Todd LLC  
201 N. Illinois Street  
Suite 1900, P.O. Box 44961  
Indianapolis, IN 46244-0961  
T: (317) 237-3800  
F: (317) 237-3900  
tdavis@fbtlaw.com

*Attorneys for Defendant Sam's East, Inc. d/b/a Sam's Club*



**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of August, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system:

Daniel Gore  
Ken Nunn Law Office  
Email: dgore@kennunn.com

/s/ Thomas L. Davis  
Thomas L. Davis

FROST BROWN TODD LLC  
201 North Illinois Street, Suite 1900  
P.O. Box 44961  
Indianapolis, IN 46244-0961  
Phone: (317) 237-3800  
Fax: (317) 237-3900  
tdavis@fbtlaw.com

LR08000.0734708 4843-2582-8039v1

**IN THE MARION COUNTY SUPERIOR COURT  
 STATE OF INDIANA**

JANICE WALTERS,	)	CAUSE NO. 49D13-2007-CT-023665
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
JOHN DOE and SAM'S EAST, INC.	)	
d/b/a Sam's Club,	)	
	)	
Defendants.	)	

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

Comes now the defendant, Sam's East, Inc. d/b/a Sam's Club, by counsel, for its Answer to plaintiff's Complaint, states:

1. Defendant is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 1 of plaintiff's Complaint.
2. Defendant is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 2 of plaintiff's Complaint.
3. Defendant denies truth of the allegations contained in paragraph 3 of plaintiff's Complaint.
4. Defendant denies truth of the allegations contained in paragraph 4 of plaintiff's Complaint.
5. Defendant denies truth of the allegations contained in paragraph 5 of plaintiff's Complaint.

WHEREFORE, defendant prays that plaintiff take nothing by way of her Complaint, for judgment in its favor and against plaintiff, for costs and for all other just and proper relief in the premises.

Respectfully submitted,

FROST BROWN TODD LLC

By: /s/ Thomas L. Davis

Thomas L. Davis, #4423-49

Attorneys for Defendant Sam's East, Inc.

d/b/a Sam's Club

**AFFIRMATIVE DEFENSES**

1. The fault of plaintiff Janice Walters caused or contributed to cause the incident in question and resulting damages.

2. Defendant reserves the right to assert additional affirmative defenses disclosed during discovery.

WHEREFORE, defendant prays that plaintiff take nothing by way of her Complaint, for judgment in its favor and against plaintiff, for costs and for all other just and proper relief in the premises.

Respectfully submitted,

FROST BROWN TODD LLC

By: /s/ Thomas L. Davis

Thomas L. Davis, #4423-49

Attorneys for Defendant Sam's East, Inc.

d/b/a Sam's Club

**REQUEST FOR JURY TRIAL**

Comes now defendant Sam's East, Inc. d/b/a Sam's Club, by counsel, and requests trial by jury in this matter.

Respectfully submitted,

FROST BROWN TODD LLC

By: /s/ Thomas L. Davis

Thomas L. Davis, #4423-49

Attorneys for Defendant Sam's East, Inc.  
d/b/a Sam's Club

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of August, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system:

Daniel Gore  
Ken Nunn Law Office  
Email: dgore@kennunn.com

/s/ Thomas L. Davis

Thomas L. Davis

FROST BROWN TODD LLC  
201 North Illinois Street, Suite 1900  
P.O. Box 44961  
Indianapolis, IN 46244-0961  
Phone: (317) 237-3800  
Fax: (317) 237-3900  
tdavis@fbtlaw.com

LR08000.0734708 4836-7879-1111v1



STATE OF INDIANA       )  
                                  ) SS:  
COUNTY OF MARION     )

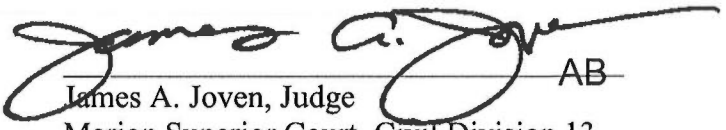
IN THE MARION SUPERIOR COURT  
  
CAUSE NO. 49D13-2007-CT-023665

JANICE WALTERS,                        )  
  )  
                    Plaintiff,            )  
  )  
                    v.                     )  
  )  
SAM'S EAST, INC., d/b/a SAM'S CLUB,   )  
  )  
                    Defendant.          )

**ORDER TO CONFER AND TENDER PROPOSED CASE MANAGEMENT ORDER**

The Court ORDERS the parties to confer regarding pretrial deadlines, then jointly tender, within 45 days of this Order, a proposed case management order for Court approval. The parties should state (1) the date this matter will be ready for trial; (2) whether the trial will be to the Court or to a jury; and (3) the expected duration of trial.

ENTERED: August 17, 2020

  
James A. Joven, Judge                        AB  
Marion Superior Court, Civil Division 13

DISTRIBUTION:  
Via electronic court distribution to all counsel of record

**IN THE MARION COUNTY SUPERIOR COURT  
 STATE OF INDIANA**

JANICE WALTERS,	)	CAUSE NO. 49D13-2007-CT-023665
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
JOHN DOE and SAM'S EAST, INC.	)	
d/b/a Sam's Club,	)	
	)	
Defendants.	)	

**PLAINTIFF'S PRELIMINARY LIST OF WITNESSES AND EXHIBITS**

**WITNESSES:**

1. Plaintiff, Janice Walters
2. Defendant, John Doe
3. Defendant, Sam's East, Inc. d/b/a Sam's Club
4. Eyewitness, Jean Ann Walters
5. All treating physicians, Riverview Hospital, P.O. Box 220, Noblesville, IN 46061
6. All treating physicians, Riverview Health Physicians Ortho & Sports Medicine, 14535 Hazel Dell Pkwy, Bldg A, Carmel, IN 46033
7. All treating physicians, Northwest Radiology Network, 13587 Collections Center Drive, Chicago, IL 60693-0135
8. All treating physicians, ATI Physical Therapy, 14660 Herriman Blvd., Ste. 300, Noblesville, IN 46060
9. All doctors that plaintiff has seen for injuries.
10. Representative(s) of Plaintiffs' health insurers, Medicare, regarding health insurance premiums and negotiated and/or contracted discounts between the insurer and Plaintiff's medical providers.

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11. Various lay witnesses, to be named later, will testify to the plaintiff's physical abilities before and/or after the incident.
12. All witnesses listed by defendant.
13. Additional witnesses may be listed by plaintiffs after discovery has been completed and prior to any deadlines set by the Court.
14. Plaintiff reserves the right to call rebuttal witnesses.

**EXHIBITS:**

1. Diagram of scene of incident.
2. Medical records.
3. Medical bills.
4. X-rays or other results of diagnostic tests.
5. Medical encyclopedia and/or dictionary.
6. Physician's Desk Reference.
7. DSM-5, AMA Guides to the Evaluation of Permanent Impairment, Sixth Edition, or other learned treatises.
8. Photographs or other depictions.
9. Video relating to this cause.
10. Life expectancy tables.
11. Video depictions/animations/stills of medical treatments and/or surgery performed or to be performed including but not limited to anatomical depictions of the human body and/or instrumentalities used or to be used in such treatments.
12. Animation depicting how the incident occurred or an expert's opinion on how the incident occurred or might have occurred or similarly including but not limited to instrumentalities and persons and locations involved in the incident.
13. Demonstrative aids and/or exemplars, including but not limited to photographs, website materials, Facebook or other social media items, Google Earth maps and street views or other computer assisted GPS location programs depicting locations, Google search results,

3

Amazon items for general sale, anatomical illustrations, PowerPoint slides, YouTube videos of mechanism of injury and/or medical treatments and surgeries for conditions, animations, websites, search engine results, musical overlays, reproductions or other representative illustrations, diagrams, drawings or depictions of scenes, people or things involved in this incident and any combination or modification of the above.

14. All exhibits listed by defendant
15. Additional exhibits may be listed by plaintiffs upon completion of discovery and prior to any deadlines set by the Court
16. Any and all documents or other materials utilized by any expert retained by defendant and/or plaintiff to testify in this cause of action.
17. Any and all documents attached and/or referenced in defendant's discovery responses.

Respectfully submitted,  
KEN NUNN LAW OFFICE

BY: /s/ Daniel Gore  
Daniel Gore, #31322-53  
ATTORNEY FOR PLAINTIFF

Daniel Gore, #31322-53  
Attorney for Plaintiff  
Ken Nunn Law Office  
104 South Franklin Road  
Bloomington, IN 47404



**CERTIFICATE OF SERVICE**

I hereby certify that on the 24th day of September, 2020 a copy of this document was filed electronically. Service of this filing will be made on all registered counsel by operation of the Court's electronic filing system or by mail should counsel not be registered.

Thomas L. Davis  
Frost Brown Todd  
201 North Illinois Street, Suite 1900  
P.O. Box 44961  
Indianapolis, IN 46244-0961

Respectfully submitted,  
KEN NUNN LAW OFFICE

BY: /s/ Daniel Gore  
Daniel Gore, #31322-53  
ATTORNEY FOR PLAINTIFF

Daniel Gore, #31322-53  
Attorney for Plaintiff  
Ken Nunn Law Office  
104 South Franklin Road  
Bloomington, IN 47404

**IN THE MARION COUNTY SUPERIOR COURT  
STATE OF INDIANA**

JANICE WALTERS,	)	CAUSE NO. 49D13-2007-CT-023665
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
JOHN DOE and SAM'S EAST, INC.	)	
d/b/a Sam's Club,	)	
	)	
Defendants.	)	

**PROPOSED CASE MANAGEMENT ORDER**

**I. Parties and Representatives**

A. Plaintiff: Janice Walters

Defendants: John Doe and Sam's East, Inc. d/b/a Sam's Club

B. **Plaintiff's Counsel:** Daniel Gore, #31322-53  
KEN NUNN LAW OFFICE  
104 Franklin Road  
Bloomington, IN 47404  
812-332-9451  
Fax: 812-331-5321  
Email: dgore@kennunn.com

**Defendant Sam's East, Inc.**  
**d/b/a Sam's Club Counsel:** Thomas L. Davis, #4423-49  
FROST BROWN TODD LLC  
201 North Illinois Street, Suite 1900  
P. O. Box 44961  
Indianapolis, IN 46244-0961  
317-237-3800  
Fax: 317-237-3900  
Email: tdavis@fbtlaw.com

Counsel shall promptly file a notice with the Clerk if there is any change in this information.

**II. Synopsis of Case**

- A. Plaintiff's Claim: On March 3, 2020, the plaintiff Janice Walters, was an invitee of the defendant Sam's East, Inc. d/b/a Sam's Club located in Indianapolis, Marion County, Indiana, and sustained injuries as the result of a trip and fall.
- C. Defendant's Claim: The defendant Sam's East, Inc. d/b/a Sam's Club denies that it or its associates were negligent and contends that plaintiff's fault caused or contributed to cause the incident and her injuries and contests the nature and extent of plaintiff's injuries and their relation to the incident in question.

**III. Pretrial Pleadings and Disclosures**

- A. Plaintiff shall file preliminary witness and exhibit lists on or before **October 1, 2020**.
- B. Defendant shall file preliminary witness and exhibit lists on or before **October 8, 2020**.
- C. All motions for leave to amend the pleadings and/or to join additional parties shall be filed on or before **November 16, 2020**.
- D. Plaintiff shall disclose the name, address, and vita of any expert witness on or before **March 19, 2021**. Defendant shall disclose the name, address, and vita of any expert witness on or before **May 3, 2021**.
- E. All parties shall file and serve their final witness and exhibit lists on or before **June 15, 2021**.
- F. Any party who believes that bifurcation of discovery and/or trial is appropriate with respect to any issue or claim shall notify the Court as soon as practicable.

**IV. Discovery<sup>1</sup> and Dispositive Motions**

Dispositive motions are not anticipated. All discovery shall be completed by **July 30, 2021**.

Absent leave of court, and for good cause shown, all issues raised on summary judgment under Indiana Rules of Trial Procedure Rule 56 must be raised by a party in a single motion.

**V. Mediation**

Parties must submit to mediation pursuant to LR 49 ADR 2 Rules 209 and 211, including but not limited to the submission of a written report from the mediator, no later than 3 months before the date of trial, unless excused by Court Order.

**VI. Trial Date**

The parties request trial, by jury, after **September 14, 2021** which is anticipated to take two to three days.

**VII. Required Pre-Trial Preparation**

**A. TWO WEEKS BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:**

1. File a list of witnesses who are expected to be called to testify at trial.
2. Number in sequential order all exhibits, including graphs, charts and the like, that will be used during the trial. Provide the Court with a list of these exhibits, including a description of each exhibit and the identifying designation. Make the original exhibits available for inspection by opposing counsel. Stipulations as to the authenticity and admissibility of exhibits are encouraged to the greatest extent possible.

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<sup>1</sup>The term “completed,” as used in Section IV.B, means that counsel must serve their discovery requests in sufficient time to receive responses before this deadline. Counsel may not serve discovery requests within the 30-day period before this deadline unless they seek leave of Court to serve a belated request and show good cause for the same. In such event, the proposed belated discovery request shall be filed with the motion, and the opposing party will receive it with service of the motion but need not respond to the same until such time as the Court grants the motion.



3. Submit all stipulations of facts in writing to the Court. Stipulations are always encouraged so that at trial, counsel can concentrate on relevant contested facts.
4. A party who intends to offer any depositions into evidence during the party's case in chief shall prepare and file with the Court and copy to all opposing parties either:
  - a. brief written summaries of the relevant facts in the depositions that will be offered. (Because such a summary will be used in lieu of the actual deposition testimony to eliminate time reading depositions in a question and answer format, this is strongly encouraged.); or
  - b. if a summary is inappropriate, a document which lists the portions of the deposition(s), including the specific page and line numbers, that will be read, or, in the event of a video-taped deposition, the portions of the deposition that will be played, designated specifically by counter-numbers.
5. Provide all other parties and the Court with any trial briefs and motions in limine, along with all proposed jury instructions. (Parties should not submit the following Model Civil Jury Instructions because the Court will always include them: 101, 103, 105, 107, 111, 115, 117, 119, 121, 123, and 305).
6. Notify the Court and opposing counsel of the anticipated use of any evidence presentation equipment.

**B. ONE WEEK BEFORE THE FINAL PRETRIAL CONFERENCE, the parties shall:**

1. Notify opposing counsel in writing of any objections to the proposed exhibits. If the parties desire a ruling on the objection prior to trial, a motion should be filed noting the objection and a description and designation of the exhibit, the basis of the objection, and the legal authorities supporting the objection.
2. If a party has an objection to the deposition summary or to a designated portion of a deposition that will be offered at trial, or if a party intends to offer additional portions at trial in response to the opponent's designation, and the parties desire a ruling on the objection prior to trial, the party shall submit the objections and counter summaries or designations to the Court

in writing. Any objections shall be made in the same manner as for proposed exhibits. However, in the case of objections to video-taped depositions, the objections shall be brought to the Court's immediate attention to allow adequate time for editing of the deposition prior to trial.

3. File objections to any motions in limine and proposed instructions submitted by the opposing parties.
4. Notify the Court and opposing counsel of requests for separation of witnesses at trial.

**IX. Other Matters**

None.

KEN NUNN LAW OFFICE

By           /s/ Daniel Gore            
Daniel Gore, #31322-53  
Attorney for Plaintiff

104 Franklin Road  
Bloomington, IN 47404

FROST BROWN TODD LLC

By:           /s/Thomas L. Davis            
Thomas L. Davis, #4423-49  
Attorneys for Defendant Sam's East, Inc.  
d/b/a Sam's Club

201 North Illinois Street, Suite 1900  
P. O. Box 44961  
Indianapolis, IN 46244-0961

\*\*\*\*\*


	PARTIES APPEARED IN PERSON/BY COUNSEL ON _____ FOR A PRETRIAL/STATUS CONFERENCE.
✓	APPROVED AS SUBMITTED.
	APPROVED AS AMENDED.
	APPROVED AS AMENDED PER SEPARATE ORDER.
	APPROVED, BUT ALL OF THE FOREGOING DEADLINES ARE SHORTENED/LENGTHENED BY _____ MONTHS.
	APPROVED, BUT THE DEADLINES SET IN SECTION(S) _____ OF THE PLAN IS/ARE SHORTENED/LENGTHENED BY _____ MONTHS.
✓	THIS MATTER IS SET FOR TRIAL BY _____ Jury _____ ON November 1, 2021. FINAL PRETRIAL CONFERENCE IS SCHEDULED FOR _____ October 13, 2021 AT 9:30AM., ROOM T-1442. 3rd Choice
	<p>A SETTLEMENT/STATUS CONFERENCE IS SET IN THIS CASE FOR _____ AT _____.M. COUNSEL SHALL APPEAR:</p> <p>_____ IN PERSON IN ROOM _____; OR</p> <p>_____ BY TELEPHONE, WITH COUNSEL FOR INITIATING THE CALL TO ALL OTHER PARTIES AND ADDING THE COURT JUDGE AT (____)</p> <p>_____; OR</p> <p>_____ BY TELEPHONE, WITH COUNSEL CALLING THE JUDGE'S STAFF AT (____)</p> <p>_____;</p>
	DISPOSITIVE MOTIONS SHALL BE FILED NO LATER THAN _____

Upon approval, this Plan constitutes an Order of the Court. Failure to comply with an Order of the Court may result in sanctions for contempt, or as provided under Fed. R. Civ. P. 16-1(f), to and including dismissal or default.

**Approved and So Ordered.**

September 28, 2020

Date

  
JUDGE, Marion Superior Court No. 13

**Distribution To:**

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Email: dgore@kennunn.com

**Thomas L. Davis**  
FROST BROWN TODD LLC  
Email: tdavis@fbtlaw.com

LR08000.0734708 4834-9383-2136v1

**STATE OF INDIANA  
IN THE MARION COUNTY SUPERIOR COURT**

JANICE WALTERS,	)	CAUSE NO. 49D13-2007-CT-023665
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
JOHN DOE and SAM'S EAST, INC.	)	
d/b/a Sam's Club,	)	
	)	
Defendants.	)	

**DEFENDANT'S PRELIMINARY WITNESS AND EXHIBIT LISTS**

Comes now defendant Sam's East, Inc. d/b/a Sam's Club, by counsel, and pursuant to the Case Management Order approved on September 24, 2020, submits their preliminary list of witnesses and exhibits:

**WITNESSES**

1. Janice Walters, Plaintiff.
2. Jean Walters.
3. Member of Management, Sam's Club #8168, Indianapolis, Indiana.
4. Sierra Purlee, Sam's Club.
5. Dwayne Thompson, Sam's Club.
6. All physicians, surgeons, or other medical practitioners who have treated, examined or consulted regarding plaintiff Janice Walters.
7. Physician retained to conduct an independent medical examination.
8. All witnesses necessary for impeachment or rebuttal.

**EXHIBITS**

1. Photographs and videos of the incident scene.



2. Defendant's accident/incident report.
3. Plaintiff's medical records.
4. Plaintiff's medical bills.
5. All documents produced in this case.
6. All exhibits listed by plaintiff
7. All exhibits necessary for impeachment or rebuttal.

Exhibits subsequently discovered will be disclosed to the Court and opposing counsel.

Respectfully submitted,

FROST BROWN TODD LLC

By: /s/ Thomas L. Davis

Thomas L. Davis, #4423-49

Attorneys for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of October, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system:

Daniel Gore  
Ken Nunn Law Office  
Email: dgore@kennunn.com

/s/ Thomas L. Davis

Thomas L. Davis

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